

### REMARKS

Claims 1-37 were previously pending in this application, with claims 9, 12-23 and 30-37 being withdrawn from consideration. Claims 25, 27 and 29 have been amended for clarity, and claim 29 has further been amended to correct its dependency. No new matter has been added. Claims 1-2, 6-8, 10-11 and 24-29 are pending for examination, with claims 1 and 3 being independent claims.

#### Allowable Subject Matter

Applicant acknowledges the finding in the Office Action that claims 3-5 are allowed.

#### 35 U.S.C. §112 Rejections

Claims 7, 25, 27 and 29 were rejected under 35 U.S.C. §112, second paragraph as being indefinite.

The Office Action states that claim 7 is indefinite because the metes and bounds of what is meant by “the composite material” is unspecified and unknown. Applicant submits that one of ordinary skill in the art at the time of the invention would have understood what is meant by the term “composite material”. As noted in the background of the present invention, composite materials are well known. For example, one suitable definition of a composite is provided in *Hawley's Condensed Chemical Dictionary*, by Richard J. Lewis Sr., as “a mixture or mechanical combination on a macro-scale of two or more materials that are solid in the finished state, are mutually insoluble and differ in chemical nature.” Because one of ordinary skill in the art would understand the meaning of “composite material” as used and claimed in the present application, Applicant respectfully requests withdrawal of this rejection.

Claims 25, 27 and 29 were rejected as being indefinite in regards to the concentration units “phr”. This term is defined in the present application as meaning “parts per hundred” (e.g., page 16, line 3). For the sake of clarity, Applicant is amending claims 25, 27 and 29 to replace “phr” with “parts per hundred”. Accordingly, Applicant respectfully requests withdrawal of this rejection.

Claim 29 was rejected because the claimed rice husk mesh size is outside of the rice husk mesh size as set forth in claim 27 from which claim 29 directly depends. Applicant has corrected the dependency of claim 29 by amending it to depend from claim 28. Applicant believes that this addresses the rejection and respectfully requests withdrawal of the rejection.

#### Rejection of Claims 1-2, 6-7 and 10-11

Claims 1-2, 6-7 and 10-11 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,951,097 (Mehta).

Mehta fails to teach or suggest a filler comprising carbonized vegetative based material that is the product of burning fresh vegetative based material at 803° to 804°C for 3 to 4 seconds, as recited in independent claim 1. In contrast, Mehta discloses a silica-based filler composition prepared by heating silica containing organic material at conditions different than those claimed (e.g., temperatures not in excess of about 1250 °F for periods of up to 66 hours). The Office Action suggests Mehta's examples anticipate the claims. However, the examples disclose higher temperatures and considerably longer times than those claimed.

Because the specific claimed temperature and time conditions are neither taught nor suggested in Mehta, Applicant respectfully submits that independent claim 1 is patentable over Mehta for at least this reason. Claims 2, 6-7 and 10-11 depend from claim 1 and, thus, are also patentable over Mehta. Therefore, Applicant respectfully requests withdrawal of the rejection on this ground.

#### Rejection of Claims 8 and 24-29

Claims 8 and 24-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Mehta. These claims depend ultimately from claim 1 which is patentable over Mehta for reasons discussed above. Therefore, these claims are also patentable over Mehta.

Moreover, Applicant respectfully disagrees that the features of the dependent claims rejected on this ground would have been obvious to one of ordinary skill in the art in view of Mehta. For example, Mehta discloses a particle size of less than 2 microns, while claim 8 recites a particle size from 100 mesh to 400 mesh; claim 25 recites a particle size of 325 to 400 mesh; claim 27 recites a particle size of 100 to 200 mesh; and claim 29 recites a particle size of 325 to

400 mesh. Furthermore, there is no teaching or suggestion in Mehta that one of skill in the art would have been motivated to use the carbonized rice hulls as a filler material for thermoset resins according to the methods recited in claims 26 and 28.

Accordingly, Applicant respectfully request withdrawal of the claim rejections on this ground.

#### Rejection of Claims 1-2, 6-8 and 10-11

Claims 1-2, 6-8 and 10-11 were rejected under 35 U.S.C. §102(b) as being anticipated by WO 92/00251 (the '251 application) or U.S. Patent No. 4,829,107 (Kindt).

The '251 application fails to teach or suggest a filler comprising carbonized vegetative based material that is the product of burning fresh vegetative based material at 803° to 804°C for 3 to 4 seconds, as recited in independent claim 1. In fact, the '251 application fails to teach any specific temperature and time burning conditions. Because the specific claimed temperature and time conditions are neither taught nor suggested in the '251 application, independent claim 1 is patentable over the '251 application for at least this reason. Claims 2, 6-8 and 10-11 depend from claim 1 and, thus, are also patentable over the '251 application.

Kindt also fails to disclose a filler that is the product of burning fresh vegetative based material at 803° to 804°C for 3 to 4 seconds, as recited in independent claim 1. Notably, Kindt discloses that it is preferred that the rice hull ash undergo "slow combustion" at low to moderate temperatures, preferably below 800°C, and more commonly between about 500°C and 600°C. (e.g., see column 3, lines 40-43). Because the specific claimed temperature and time conditions are neither taught nor suggested in Kindt, independent claim 1 is patentable over Kindt for at least this reason. Claims 2, 6-8 and 10-11 depend from claim 1 and, thus, are also patentable over Kindt.

Accordingly, Applicant respectfully request s withdrawal of the claim rejections on this ground.

#### Rejection of Claims 1-2, 6-7 and 10-11

Claims 1-2, 6-7 and 10-11 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,959,007 (Pitt) or U.S. Patent No. 4,105,459 (the '459 patent).

Pitt fails to disclose a filler comprising carbonized vegetative based material that is the product of burning fresh vegetative based material at 803° to 804°C for 3 to 4 seconds, as recited in independent claim 1. In contrast, Pitt discloses incinerating rice hulls at high temperatures such as greater than 1100°C (e.g., see examples). Because the specific claimed temperature and time conditions are neither taught nor suggested in Pitt, independent claim 1 is patentable over Pitt for at least this reason. Claims 2, 6-7 and 10-11 depend from claim 1 and, thus, are also patentable over Pitt.

The '459 patent also fails to teach a filler comprising carbonized vegetative based material that is the product of burning fresh vegetative based material at 803° to 804°C for 3 to 4 seconds, as recited in independent claim 1. The '459 patent discloses different temperature and time conditions. Because the specific claimed temperature and time conditions are neither taught nor suggested in the '459 patent, independent claim 1 is patentable over the '459 patent for at least this reason. Claims 2, 6-7 and 10-11 depend from claim 1 and, thus, are also patentable over the '459 patent.

Accordingly, Applicant respectfully requests withdrawal of the claim rejections on this ground.

#### Rejection of Claim 8

Claim 8 was rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Pitt or the '459 patent.

Claim 8 depends ultimately from claim 1 which is patentable over Pitt and Mehta for reasons discussed above. Therefore, for at least these reasons, claim 8 is also patentable over Pitt and Mehta. Accordingly, Applicant respectfully requests withdrawal of the rejection on this ground.

**CONCLUSION**

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

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